

Time; (4) upon Pain every Person offending contrary to this Act, shall forfeit to the party grieved, for every such Offence, an hundred Shillings, and treble Damages.

Where Distresses taken shall be impounded, 52 H. 3, c. 4. 3 Ed. c. 16. Cok. 43. Rast. 164. Cro. El. 480, 645. March, 56. 2 Leon. 52. Moor. 453. Goldsb. 100, pl. 5; 145, pl. 62.

See the note to 51 H. 3, St. 4.¹ If the place is not more than three miles out of the hundred, it is within the Statute, Godb. 11. If lands in adjoining counties are let upon one demise, cattle may be taken to a pound in either of the counties, but cannot be driven through an intermediate county, Walter v. Rumbal, 1 Ld. Raym. *53. And it seems that the cattle 369 ought all to be impounded in one pound, *ibid*; though in Partridge v. Willcocks, cited in 2 Dy. 177 b., the expression in the Statute, "in several places," was construed to mean in several liberties, &c., and not to apply to putting the cattle in several pounds.

Driving the cattle to the next pound in another county does not make the party a trespasser, although subjecting him to an action upon the Statute, Gimbart v. Pelah, 2 Str. 1272. This action is not local, Pope v. Davis, 2 Taunt. 252; Fife v. Bousfield, 6 Q. B. 100, from which it seems also that the declaration ought to be *contra formam statuti*. The offence created by the Statute for impounding the distress in a wrong place is a single offence, and is satisfied by one forfeiture, the construction being that the penalty refers to the offence and not to the person, *per* Lord Mansfield in R. v. Clark, Cowp. 610; and therefore in Partridge v. Naylor, Cro. Eliz. 480, where three persons distrained a flock of sheep, and severally impounded them in three several pounds in three several hundreds, it was held that they should forfeit but one *5l.* and one treble damages. As to costs see 2 Inst. 289.

¹ As to distress *damage feasant*, see Boden v. Roscoe, (1894) 1 Q. B. 608; Green v. Duckett, 11 Q. B. D. 275; Cape v. Scott, L. R. 9 Q. B. 269.

See also Code 1911, Art. 34, sec. 6, as to the impounding of estrays.

CAP. XIII.

An Act touching Bailment of Persons.

Where in the Parliament holden at *Westminster* in the third Year of the Reign of the Noble Prince, King *Henry* the Seventh, it was among other Things ordained and enacted, That no Prisoner arrested for Felony, should be letten to Bail or Mainprise, by any one Justice of Peace, but by the whole